1 2 3		FEDERAL ELECTION COMMISSION 999 E Street, N.W. Washington, D.C. 26463
4 5		FIRST GENERAL COUNSEL'S REPORT
6		FIRST GENERAL COUNSEL 5 REFORT
7		RAD REFERRAL: 07L-51
8		DATE OF REFERRAL: November 9, 2007
9		DATE ACTIVATED: November 14, 2007
10		
11		EXPIRATION OF SOL: Earliest January 23,
12 13		2007/Latest July 27, 2010
14		
15		
16		
17		·
18		EXPIRATION OF SOL: Earliest January 23,
19		2007/Latest July 27, 2010
20 21		MID. 5071
22		MUR: 5971 DATE COMPLAINT FILED: February 5, 2008
23		DATE OF NOTIFICATION: February 11, 2008
24		DATE ACTIVATED: February 13, 2008
25		<u> </u>
26		EXPIRATION OF SOL: Emisst January 23,
27		2007/Latest July 27, 2010
28		
29 30	SOURCE:	Internally Generated
31	SOURCE:	internativ Generated
32		
33		
34		Complaint '
35		<u>-</u>
36		
37	COMPLAINANTS:	
38 39		
40		
41	<b>RESPONDENTS:</b>	Lindsey Graham for Senate and Kevin A. Hall,
42		in his official capacity as treasurer <sup>1</sup>
43		Mary Jennifer Adams

<sup>&</sup>lt;sup>1</sup> Most of the violations discussed in this report took place during the tenure of former committee treasurer Neil Byerley. The Committee designated Mr. Hall as treasurer on April 13, 2005.

RR 07L-51.

```
and MUR 5971 (Lindsey Graham for Senate)
                                               2
     First General Counsel's Report
 1
     RELEVANT STATUTES
 2
       AND REGULATIONS:
                                                2 U.S.C. § 431(11)
 3
                                                2 U.S.C. § 432(b)(3)
 4
                                                2 U.S.C. § 432(c)
                                                2 U.S.C. § 434(a) and (b)
 5
 6
                                                2 U.S.C. § 439a
 7
                                                11 C.F.R. § 102.15
                                                11 C.F.R. § 104.3
 8
 9
                                                11 C.F.R. § 104.14(d)
10
                                                11 C.F.R. § 113.1(a)
11
12
     INTERNAL REPORTS CHECKED:
                                                Disclosure Reports
                                                RAD Referral Materials
13
14
15
     OTHER AGENCIES CHECKED:
                                                South Cambina Law Enforcement Division
16
17
     L
             INTRODUCTION
18
             These matters grose after Lindsey Graham for Senate and Kevin Hall, in his official
     capacity as treasurer, (the "Committee") discovered that the Committee's former Assistant
19
20
     Treasurer, Mary Jennifer Adams, issued unauthorized disbursements to herself and to her
21
     personal creditors using Committee funds totaling approximately $280,688.84 and made
     unauthorized deposits in the amount of $18.172.46.2 Adams' embezzlement scheme took place
22
23
     over the course of three years and resulted in violations of the Federal Election Campaign Act of
24
     1971, as amended ("the Act"), by the Committee and its former Assistant Treasurer.
25
             A few weeks after the Committee discovered the apparent embezzlement, it notified the
     Commission's Reports Analysis Division ("RAD") and informed the South Carolina Law
26
27
     Enforcement Division ("SLED"). After the Committee filed amended reports reflecting the
28
      unauthorized transactions, RAD referred Lindsey Graham for Senate to this Office for apparent
```

<sup>&</sup>lt;sup>2</sup> As discussed *infra*, Adams also embezzled \$9,669.56 in funds from Senator Graham's former campaign committee for the U.S. House of Representatives, the Committee to Elect Lindsey Graham.

<sup>&</sup>lt;sup>4</sup> This Office notified Adams of the complaint in February 2008. Although Adams has not submitted a response, her attorney for the criminal matter was quoted in a press report as acknowledging that "this [matter] involves the Federal Elections[sic] Commission." Supplementary Submission at Ex. 5.

22

RR 07L-51,			
and MUR 5971	(Lindsey	Graham	for Senate)
First General Co	runsel's F	leport	

. We further recommend that the 1 Commission merge the new MURs into MUR 5971. Regarding the embezzler, Mary Jennifer 2 3 Adams, we recommend that the Commission find reason to believe that she knowingly and willfully violated 2 U.S.C. §§ 432(b) and (c), 434(b), and 439a by commingling Committee 4 funds with her personal funds, failing to properly track all disbursements, failing to accurately 5 6 report all receipts and disbursements in the Committee's disclosure reports filed with the 7 Commission, and by converting Committee funds to her one personal use. We believe that we 8 have obtained sufficient information -9 10 11 12 13 П. **FACTUAL SUMMARY** 14 A. The Embezzlement Scheme Between January 23, 2002 and July 25, 2005, Mary Jennifer Adams embezzled funds 15 16 from Lindsey Graham's principal campaign committees for the U.S. House of Representatives 17 and the U.S. Senuta. Anima initially inited Graham's congressional memoring, the Committee to Elect Lindsey Graham ("CRLG"), during the 1994 election cycle to assist in graphic design and 18 advertising, but later assumed disclosure and financial duties after the departure of the CELG's 19 Committee's Supplemental Submission 20 bookkeeper.

U.S. Senate campaign committee (i.e., the Committee), served as Assistant Treasurer for the

In 2002, Adams transitioned the same duties to Graham's

1 Committee, and also acquired additional office manager duties under the title of "Campaign Administrator." In 2003, Adams began to work part-time for the 2 3 Committee and part-time as a Deputy Press Secretary for Senator Graham's Senate office, ceasing her work for the Committee in November 2006. Id. Adams was terminated from her 4 position with the Senate office on June 19, 2007, upon discovery of the embezzlement. Id. at 3. 5 6 8. 7 In January 2005, the Committee relocated its main office from Seneca, South Carolina to Columbia, South Carolina, reorganized its staff, and named a new treasurer (Kevin Hall) and 8 assistant treasurer (Scott Farmer). During the transition, Hall and Farmer sought to develop a 9 10 thorough understanding of the Committee's finances and decided to review the Committee's 11 financial records. It also became necessary for them to review bank statements in order to 12 properly respond to a RAD Request For Additional Information ("RFAI") dated September 19, 2006. Although Adams deliberately frustrated their efforts by preventing complete access to the 13 14 Committee's financial records, their financial review eventually led to the discovery of Adams' 15 embezzlement. 16 Initially, the new officers relied on Admes to provide them with copies of the

Committee's firmingial records. It appears that Adams would typically take several weeks to

The Committee explains that its reorganization was "prompted by the complexities of operating a state wide senatorial campaign" and that therefore, it directed its efforts to "consolidate all financial activities in Columbia." Supplementary flukunisation at 8-9. Paior to 2005, Scout Farmer was the Committee's Compaign Managar and was based out of Columbia. During its reorganization, the Committee also replaced treasurer Neil Byerley, who was located in Seneca, with a treasurer based out of Columbia.

Supplementary Submission, at 9. It appears that Mr. Byerley, a man in his seventies, also expressed an interest in taking a break from his treasurer duties at that time.

The Committee advised RAD of its ongoing financial rection in Optober 2006, indicated that it planned to assemble its repeats where appropriate, and provided periodic updates on its progress. See BAD Enferrel at Attachment 2. However, as discussed infers, it was not until later in the review process that clear evidence of wrongdoing was uncovered.

respond to such requests, and would provide only partial records, along with a variety of excuses

2	for her incomplete responses. Supplementary Submission at 10. The Committee indicated that
3	those records that Adams did provide were in such disarray that she had to travel to the
4	Committee's Columbia office a number of times to help Hall and Farmer sort through them. Id.
5	at 11.
6	Even after the Committee requested copies of account records from the bank, Adams was
7	able to hinder the process because the resords were sent to her in the Susena office and size would
8	frequently claim that the records had not yet errived.
9	the officers did not suspect any wrongdoing in connection with Adams' delayed provision of the
10	records as she always included "enough materials to make it appear that she was
11	providing the requested information." Supplementary Submission at 10-11. Rather, Hall and
12	Farmer started to believe that Adams had become sloppy in her work.
13	<del></del> ].
14	It was not until the end of 2006, after Hall and Farmer discovered a number of multiple
15	surplus salary payments and bonuses for Adams that they began to suspect possible wrongdoing.
15	In November 2008, they confronted Adams abset the extra salary
17	payments and in response, Admes claimed that she had cleared the payments with ficestor
18	Graham. Senator Graham denies ever having such a discussion with Adams or aver having

<sup>&</sup>lt;sup>7</sup> For example, after various requests for documents, Adams stated that she needed more time to locate some of the records and that some of the records had been destroyed by a minor flood in the Seneca office in April 2005. Supplementary Submission at 10-11;

During a teleconference with this Office, Kevin Hall, Scott Farmer and part time staff member Denise Bauld explained that they had no reason to suspect any wrongdoing by Adams. They stated that during their time working together, they developed a close friendship with Adams and came to areast her. See, e.g.,

1	authorized these extra payments. Id. at 6. As a result, in December 2006, the Committee
2	contacted its bank to request that all correspondence be sent directly to the Columbia office.
3	Supplementary Submission at 11. The review process still remained
4	slow, however, because some of the Committee's records pre-dated the bank's electronic system
5	and had to be obtained from microfiche.
6	As it received records directly from the bank, the Committee engaged in an item by item
7	review of its receipts and disbusonmute and slowly more to disnover additional discuspanties.
8	For instance, in addition to multiple unauthorized salary payments and horaces to Adems, there
9	were disbursements logged as payments to vendors that did not exist.
0	One such payment was a November 1, 2002 payment of \$11,250 that
1	appeared to be payable to a direct mail vendor. The cancelled check, however, was made
2	payable to, and endorsed by, Adams. See id. at 7; Supplementary Submission at Exs. 11-12.
3	There were also a number of payments falsely entered in the Committee's internal database and
4	on the Committee's disclosure reports as payments to the Internal Revenue Service that were
5	actually disbursements made to Adams. Supplementary Submission at Exs. 2-3.
6	In addition to the fraudulent disbursaments, the Committee also discovered that Adams
7	had circuined a vice consist cord in Senator Graham's more without his knowledge.
8	Supplementary Submission at Ex. 5, 7, and 9; RAD Referral at Attachment
9	2. It appears that in 2005 Adams forged Senator Graham's signature on a number of credit card
20	advance checks from that card and disbursed the funds to herself and her personal creditors.
21	After these discoveries, and after consultation with Senator Graham, Adams was terminated from
12	har position at the Courte office on Time 10, 2007. The Committee notified DAD of the

misappropriation on June 20, 2007 and also reported Adams' conduct to SLED via a letter dated

1

19

June 26, 2007. 2 3 At the time the Committee discovered Adams' embezzlement scheme, it was believed that she had misappropriated approximately \$26,000 in Committee funds. Id. at 7. However, the Committee's ongoing reconciliation and a SLED subpoena led to the discovery that Adams had 5 6 actually embezzled \$6,668.56 is funds from CELG from October 2002 through January 2003 and over \$200.000 from the Committee from January 2002 through July 2005. In total, Adams 7 made at least 113 wasuthenized dishursements to besself and her creditors and that she altered at 8 9 least 52 checks and 8 bank statements to disguise her theft. Id. at 11. SLED discovered that when the Committee moved its base of operations to Columbia in 10 11 2005, Adams kept the Seneca Committee bank account open, contrary to explicit instructions to 12 close it. Supplementary Submission at 11. In fact, Adams had 13 indicated to Kevin Hall that the bank account had been closed and provided an altered bank 14 statement to that effect. Supplementary 15 Submission at 11. Adams not only missopropriated the remaining funds from that account for 16 her wwn personal use, but she also deposited forged checks from Senator Graham's personal bank ascounts into that amount. Supplementary Submission at Eu. 16. Additionally, Adams 17 denosited credit card advance obecks into the Capimittee's Senaca bank amount using charks 18 from the credit card that she fraudulently obtained in the Senator's name. Id. at Exs. 7 and 16. In

After discovering Adnos' missystem station, the Committee kept RAD appealsed of its outpoing review and of SLED's discovery of additional unauthorized activity through teleconferences held on July 3, August 10 and September 5, 2007, and additional contacts with the RAD analyst between June and October 2007. RAD Referral at Attachment 2. For instance, on September 5, 2007, the Committee informed RAD that after obtaining Adams' bank records, SLED discovered over \$80,000 in additional unauthorized transactions that were previously not discovered during the Committee's initial internal audit. Id.

RR 07L-51,	
and MUR 5971 (1	Lindsey Graham for Senate)
First General Cou	insel's Report

- total, Adams deposited approximately \$18,172.46 in unauthorized funds into the Seneca account.
- 2 SLED's investigation revealed that Adams later disbursed some of those funds to herself and to

3 her personal creditors.

- The Committee's audit and SLED's investigation also revealed that Adams had
- 5 concocted an elaborate scheme to avoid detection of her thelt. During the initial stages of the
- 6 Committee's sardit, when Adams was still being sent the bank records, she altered copies of the
- 7 charks written out to her largere turning the records over to the Committee treasurer. See
- 8 Supplementary Submission at 11. A folder maintained by Adems contained images of cancelled
- 9 checks and bank statements that she was in the process of altering.
- 10 Supplementary Submission at 11. Adams' computer hard disk drive also
- 11 contained images of original checks used for the fraudulent disbursements and altered versions of
- 12 those checks. The alteration process was
- 13 evident in these images some versions showed the payee name was removed and other versions
- showed a different payee name had been inserted. Id. at 11.
- On October 2, 2007, the Committee filed amendments to twelve reports from the 2002
- 16 through 2008 election cycles that disclosed Adams' unsuthorized transactions, and filed
- additional amendments with the Commission on January 26, 2008.
- 18 Supplementary Submission at 12. Senator Graham informed his supporters about the
- 19 embezzlement via a press release on October 15, 2007.
- Adams was arrested on December 14, 2007, and indicted on March 10, 2008 on five

1	counts of Breach of	f Trust with	Fraudulent Inter	it and one count	t of Financial Identi	ty Fraud
---	---------------------	--------------	------------------	------------------	-----------------------	----------

2 Supplementary Submission at Exs. 5 and 7.10

## **B.** The Committee's Internal Controls

3 Prior to 2005, the Committee had few internal financial controls. The Committee 4 appeared to be in compliance with Commission regulations in its basic procedures for 5 maintaining records of repeipts and disburgements. 6 maintained one shecking associat in the name of the Committee, which required an actual 7 8 signature for the chocks; no stamps or fax signatures was permitted. Then-treasurer Neil 9 Byerley and Assistant Treasurer Adams each had signature authority on the account. Id. 10 However, it is evident that there was no segregation of duties and that Adams was not 11 supervised in any manner. In its submissions, the Committee indicates that Adams was never 12 assigned a list of identifiable duties, but rather, that her duties evolved over time. Supplementary 13 Submission at 2. During the relevant time period, Adams' duties as Assistant Treasurer and 14 Campaign Administrator for the Committee included the following: receiving and depositing all contributions, receiving and retaining bank statements, keeping records of campaign receipts and 15 disburgements, bookkeeping, making disburgements, preparing, signing, and filing reports with 16 17 the Commission, preparing "these you" letters to contributers and drafting newspowers administration and the Committee, along with other miscellaneous campaign related activities. 18

20 21

19

Supplementary Submission at 2-3.

The criminal case against Adams is still pending. A trial date has not yet been set in the matter.

1	It also appears that no one supervised Adams in her work. While Adams was to have
2	performed her day-to-day tasks "in coordination with" and "under the supervision of "
3	Mr. Byerley, she appears to have lacked such supervision throughout her tenure with the
4	Committee. Supplementary Submission at 2. During a conference call with us, Committee staff
5	member Denise Bauld explained that Mr. Byerley rarely stopped at the campaign offices and
6	Ms. Bauld could early recall a few instances when Adams indicated she planned to visit
7	Mr. Byerley at his CPA offices to discuss a Committee matter. 11 Further, except during the
8	height of the campaign season, Adams was the only full-time staff member at the Committee's
9	Seneca office.
10	As part of the Committee's 2005 restructuring process, Kevin Hall and Scott Farmer
11	consulted with accounting firms and non-profit organizations in an effort to adopt increased
12	internal controls. It appears that the Committee adopted increased
13	internal controls prior to discovery of Adams' unauthorized activity. Id. at 14. Those controls
14	included the following: restricting check signing authority to Senator Graham, Kevin Hall and
15	Scott Farmer, requiring two signatures for checks over \$2,000, requiring reconciliation of the
16	Committee's bank account to be completed by an outside CPA firm that would not have any
17	signature authority, respuiring three individuals to be involved in respecting discharge reports,
18	segregating duties such as the delivery of checks for mailing from the writing and signing of
19	checks, prohibiting the use of wire transfers and debit cards, and implementing a petty cash fund
20	with an imprest system limited to \$300.
21	procedures, no one was tasked with the responsibility of reconciling the Committee's FEC

We were unable to definitizely determine the extent of Mr. Byerley's supervision over Adams, if any, during that time period because he passed away in January 2006.

RR 07L-51,

and MUR 5971 (Lindsey Graham for Senate)

First General Counsel's Report

	1	report	s with its bank statements. The Committee has also reviewed the Commission's guidance					
	2	on "Ir	on "Internal Controls and Political Committees" and considers the procedures it adopted in 2005					
	3	to sati	isfy those guidelines. See					
	4	http://	www.fec.gov/law/policy/guidance/internal controls polemtes 07.pdf.					
	5	III.	LEGAL ANALYSIS					
	6							
) >	7							
J T	8							
) 1 1 1	9							
4	10							
	11							
	12							
	13	•						
	14							
	15							
	16		•					
	17							

RR 07L-51, and MUR 5971 (Lindsey Graham for Senate)

First General Counsel's Report

## **B.** Liability of Mary Jennifer Adams

According to Commission policy, a former treasurer or assistant treasurer may be named as a respondent in his or her personal capacity when it appears that, while serving as a treasurer or assistant treasurer, he or she may have violated obligations imposed by the Act or Commission regulations personally on a treasurer and where, among other situations, the violations were knowing and willful. See Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, 70 Fed. Reg. 3 (January 3, 2005); see, e.g., MUR 5610 (Earl Allen Haywood) and MUR 5721 (Lockheed Martin Employees' PAC). Therefore, we recommend that the Commission make findings as to Adams in her personal capacity in connection with violations of the Act while performing the duties of the treasurer.

As Assistant Treasurer performing treasurer duties, Adams was required to accurately keep an account of and report receipts and disbursements. See 2 U.S.C. §§ 432(c); 434(b)(2), (3), (4) and (6); and 11 C.F.R. § 104.3(a)-(b). Committee treasurers and any other person required to file any report or statement under the Act and the Commission's regulations are also personally responsible for the timely and complete filing of the report or statement and for the

- 1 accuracy of any information or statement contained in it. 11 C.F.R. § 104.14(d). Adams
- 2 knowingly and willfully failed to keep an accurate account of all disbursements in order to hide
- 3 her fraudulent scheme and failed to accurately report certain receipts and disbursements in
- 4 reports filed with the Commission.<sup>15</sup>
- 5 The Act also prohibits the commingling of committee funds with "the personal funds of
- 6 any individual," including officers of a committee. 2 U.S.C. § 432(b)(3) and 11 C.F.R. § 102.15.
- 7 The Communication has previously made findings that Respondents violated 2 U.S.C. § 432(b)(3) in
- 8 matters where individuals misappropriated committee funds by making unauthorized
- 9 disbursements to themselves or others to pay for personal expenses. See, e.g., MUR 5923
- 10 (American Dream PAC); MUR 5920 (Women's Campaign Fund); MUR 5721 (Doggett for U.S.
- 11 Congress). Additionally, the Act prohibits any person from converting contributions to a Federal
- candidate for personal use. 2 U.S.C. § 439a(b)(1). "Personal use" means any use of funds in a
- 13 campaign account of a federal candidate to fulfill a commitment, obligation or expense of any
- person that would exist irrespective of the candidate's campaign duties, 11 C.F.R. § 113.1(g).
- 15 The term "person" includes individuals and committees. 2 U.S.C. § 431(11).
- 15 In this matter, Aderas knowingly and willfully wrote checks to hurself from Committee
- 17 accounts without authorization, cantud or deposited the checks into her personal bank account,
- and issued disbursements to her personal creditors, in violation of 2 U.S.C. §§ 432(b)(3) and
- 19 439a. Adams disguised her illegal activity by making false entries into the Committee's internal

To establish a knowing and willful violation, these must be knowledge that one is violating the law. See FEC v. John A. Dramesi for Congress Comm., 640 F. Supp. 985, 987 (D. N.J. 1986). A knowing and willful violation may be established "by proof that the defendant acted deliberately and with knowledge that the representation was false." U.S. v. Hopkins, 916 F.2d 207, 214 (5th Cir. 1990). An inference of a knowing and willful act may be drawn "from the defendant's elaborate scheme for disguising" his or her actions. Id. at 214-15.

1	database and in disclosure reports filed with the Commission, and by manipulating copies of
2	checks and bank statements during the Committee's internal financial review. Supra at 7-9. In a
3	handwritten letter to Senator Graham's Chief of Staff following her termination, Adams
4	essentially admits that she knowingly and willfully embezzled funds from the Committee (e.g., "I
5	have fied, cheated, stolen, betrayed").
6	above, her commingling and personal use violations resulted in recordkeeping and reporting
7	violations of the Act. 2 U.S.C. §§ 432(c) and 434(b).
8	Accordingly, we recommend that the Commission find reason to believe that Mary
9	Jennifer Adams knowingly and willfully violated 2 U.S.C. §§ 432(b) and (c), 434(b), and 439a.
10	
11	
12	
13	
14	
15	
lg	
17	
18	
19	
20	

RR 07L-51, and MUR 5971 (Lindsey Graham for Senate) First General Counsel's Report

	RR 07L	-51, IR 5971 (Lindsey Graham for Senate)
1		meral Counsel's Report 18
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12	V.	RECOMMENDATIONS
13		1. Open a MUR in RAD Referral 07L-51.
14 15		2.
16 17		3.
18 19		
20 21		4. In MUR 5971, find reason to believe that Mary Jennifer Adams knowingly and willfully violated 2 U.S.C. §§ 432(b) and (c), 434(b), and 439a.
22 23		5. Merge the new MURs into MUR 5971.
24 25 26		6. Approve the attached Factual and Legal Analyses.

	and MUR 5971 (Lindsey Graham for Sena First General Counsel's Report	te) 19
1 2 3 4 5 6 7		
9 0 1 2 2 4 5	11. Approve the appropriate	e letters.  Thomasenia P. Duncan General Counsel
7 8 9 0 1 2 3 4 5 6 7 8 9	6-12-08 Date	Ann Marie Terzaken Associate General Counsel for Enforcement  Thomas J. Andersen Acting Assistant General Counsel
0 1 2 3 4 5 6 7 8		Ana J. Pefia-Wallace Attorney